

# Housing Policy

## Accessory Dwelling Units: Expanding Affordable Housing Options in Hawai'i

**A**ccessory dwelling units (ADU) are an important tool in expanding affordable housing stock, especially in areas with limited room for growth and high housing costs. This policy brief describes ADUs and their benefits and provides examples of successful ADU policies from around the country. This brief concludes with initial proposals for policies, initiatives, and reforms that would balance the needs and concerns of communities while allowing and facilitating ADU creation.



ADU constructed over garage

### Background

Accessory dwelling units are separate living areas with their own kitchen, bathroom, and sleeping facilities, built on a single-family lot and may be inside, attached, or detached from the main house. They can be created by converting or adding to an existing home or garage, or constructed as a new separate building on the lot. While accessory dwelling units go by a variety of names, including granny or mother-in-law flats, in Hawai'i they are best known as "ohana units," emphasizing their unique history here and the importance of intergenerational living. For clarity, this brief will refer to such units as accessory dwelling units (ADUs) unless specifically referring to ADUs whose occupancy is limited to family members, such as ohana units on Oahu.

Nationally, households have been getting smaller, yet the size of housing units has dramatically increased. This trend holds true in Hawai'i. **One out of four households in Hawai'i are now composed of a single individual.** Our population is also rapidly aging, while young people are often hard-pressed to afford the high cost of living in Hawai'i. At the same time, the cost of living continues to rise, including **the cost of**

### CONTENTS

Background.....	1
Benefits to property owners.....	2
Accessory Units in Hawai'i.....	4
Case Studies.....	6
Concerns.....	7
Recommendations.....	9
Conclusion.....	10

**shelter, which is twice the national average.** Not only do we have the highest single family home prices in the nation, but we also face the highest rents. Rents have increased 45 percent between 2005 and 2011 alone, and **75 percent of extremely low-income households are paying more than half of their income in rent.** This dramatic shortfall in affordable housing is a major reason why Hawaii has the **highest rate of homelessness among the states.** This crisis can only be resolved with an adequate stock of affordable housing for our entire community. Accessory dwelling units are a promising strategy that engages the private sector to create more affordable rentals at minimal cost to the state and counties.

### Housing by the numbers:

**25%** Of households in Hawai'i are now composed of a single individual.

**75%** Extremely low-income households are using more than half of their income on rent.

**45%** Increase in rents from 2005-2011.

**100%** Increase over the average cost of rent on mainland.

### Benefits to Property Owners, Communities, and the Environment:

#### *Benefits to property owners:*

**T**he cost for an ADU can be dramatically lower than a new single-family home on a separate lot. Property owners have the ability to develop ADUs according to their budget, with costs ranging from \$40,000 up to prices comparable to new residential construction depending on the style and size of the ADU. Costs may be even less if already-existing structures are modified or divided.

ADUs provide rental income to homeowners and can help them afford to pay their mortgages and property taxes, alleviating the effects of the high cost of living in Hawai'i. This additional income can also help prospective homeowners to buy their first home. Assessing the value of the ADU itself or its impact on property values is challenging because so few are permitted, but rental payments can provide a long-term boost to a household's income.



Small House built by Tennessee Tiny Homes

### *Benefits to older adults*

In light of Hawai'i's high rate of multi-generational living, ADUs can preserve this type of housing arrangement while reducing overcrowding in the main unit. We have already approached this through the creation of ohana dwellings, a form of ADUs with occupancy restricted to relatives. These units help older individuals to age in place and for adult children to remain near their families. The state's Home for Life Task Force was a particularly strong advocate for ADUs in its report to the legislature, stating that ADUs held "enormous potential" to promote intergenerational living and aging-in-place, create affordable housing, and support the construction industry. The AARP has similarly endorsed ADUs. Older adults can either remain in the main dwelling or elect to downsize into the accessory unit depending on their needs.

ADUs allow for creative rental arrangements that can be tailored to meet the needs of residents in the primary dwelling. Aging homeowners could have caregivers live on site or provide services such as caretaking and chores, providing greater safety and supervision. A recent study of Oregon cities found that 10 percent of respondents traded services such as childcare in exchange for all or part of the rent.

### *Increasing affordable housing stock*

A Berkeley, California study found that 30 percent of ADUs were affordable for very low-income households, defined as those earning 30-49 percent of the area median income (AMI) with an additional 49 percent affordable to low-income households earning between 50 and 80 percent of area median income. Average rental rates were affordable to a household earning 68 percent of the area median income. Even in costly Marin County, California, where many secondary units are valuable as vacation rentals, 62 percent of ADU rentals have rents that are affordable to households earning less than 80 percent of AMI. According to the 2011 Hawai'i Housing Planning Study, almost 40 percent of coming demand for new housing units will come from these income groups earning between 30-80 percent of the area median income. Loosening restrictions on ADUs could help meet this critical need with little investment on the part of the government.

### *Sustainability*

Because of their small size, ADUs are ideal for infill development, especially in urban single family residential neighborhoods, and prevent sprawl. They are more sustainable than many other housing options. Reducing the size of a home significantly reduces environmental impact and has been ranked as the best green building practice by the Oregon Department of Environmental Quality's Green Building Program. For example, an extra-small home of 1149 square feet produces 36 percent less greenhouse gas emissions over its

lifecycle compared to a standard-sized house of 2,262 square feet.

While Honolulu needs to improve its limited and aging infrastructure, ADUs reduce demand for the development of infrastructure in outlying areas. ADUs can be attached to the main dwelling unit's utilities. ADUs also raise revenue by enhancing the property tax base as a greater understanding develops of the value of properties with ADUs and therefore higher appraisals. Other increased revenues come from the General Excise Tax on rental income, monthly sewer base charges, and permitting fees.



Newly constructed main dwelling and ohana unit in Kihei, Maui

Perhaps most importantly in Hawai'i, ADUs can create new affordable housing at minimal cost to the government beyond infrastructure improvements—many of which are already needed. Instead of requiring government subsidies, individual property owners and the private sector can respond to the needs of the market. Some express concerns that people will not want to live in small rental homes, but Hawai'i's residents have long dealt with a tight housing market and extremely high rents that has often resulted in overcrowding.

ADUs provide a number of benefits to their community and have been successfully utilized in a variety of municipalities, including wealthier communities with land use limitations such as Santa Cruz, California. In Whistler, British Columbia, a city with a liberal ADU policy, 75 percent of new single family homes coming onto the market already include ADUs. In those communities, they are a key part of plans to create more affordable housing and growing in popularity. ADUs are generally designed to blend in with the surround community and are generally discreet—or even nearly hidden—from the street, thus helping to preserve the neighborhood's character. Marketing and support for ADUs has expanded beyond multigenerational living and aging in place, and now also emphasizes singles, empty-nesters, and those looking to downsize and live more simply. In light of our local controversies surrounding building heights, sprawl, and density, ADUs are an efficient yet controlled way to promote infill without altering the character of the community.

## Accessory Units in Hawai'i

### *State of Hawai'i*

**T**he need for affordable housing in Hawai'i has existed for decades, as has the widespread practice of multigenerational living. In 1981, the state legislature took action to meet these needs by passing a bill that required that



each county allow a second dwelling unit on single-family residential lots with adequate public facilities. The counties adopted their own ordinances to implement the new law, which was ultimately amended in 1989 to leave accessory dwelling unit regulation up to the individual counties. Despite their newly-delegated discretion, no county repealed their ADU ordinances, although modifications have continued in an effort to balance the intent of ADUs and the needs of the community.

### *City and County of Honolulu*

Under the current Land Use Ordinances in Honolulu, lots of sufficient size can have up to eight dwelling units on their property. For example, a lot size of 7,500 sq. ft. can have up to two attached units, while a 10,000 sq. ft. lot can have two detached dwelling units. A 20,000 sq. ft. lot in the same zoning can have up to four dwelling units. These additional detached units must meet the setback requirements, meaning that a minimum yard size is required around the house.

As for ohana units, where tenancy is restricted to family members, they are limited in floor area from 700 to 1000 square feet, depending on zoning. New ohana units must be attached to the main residential structure. In 1992, the City Council passed an ordinance restricting ohana units to family members, a provision that is unusual among jurisdictions allowing secondary units.



Accessory dwelling unit in Portland, Oregon

### *County of Maui*

ADUs are subject to maximum size limits based on lot size. The structures must be detached from the main structure, with no internal connection permitted, and must have a separate entrance. Only one additional parking stall is required, and the ADU may have a separate driveway from the main dwelling. Occupancy is not restricted to families, unlike ohana units on Oahu.

### *County of Kauai*

Kauai allows one additional single family residential dwelling unit on any residentially zoned lot where only one single family home is permitted. These secondary units must meet all applicable county requirements, including those related to building height, setbacks, maximum lot coverage, parking, and floor area requirements. The infrastructure, including sewage and water, must be deemed adequate by the relevant agencies.

## *County of Hawai'i*

The Hawai'i County Code on zoning defines an "ohana unit" as "a second dwelling unit permitted to be built as a separate or an attached unit on a building site," excluding guest houses and farm dwellings. Under the code, a single ohana unit may be located on lots of more than 10,000 square feet in any single-family residential district, residential and agricultural districts, family agricultural districts, and agricultural districts. As with other ADUs, the structures must meet all applicable code provisions. They cannot exceed 25 feet in height; yards must meet the minimum requirements for the zone, plus an additional five feet; and two parking spaces must be provided per unit. The units must also have adequate sewage, water, fire protection, and street access, and applications will only be accepted after all infrastructure improvements have been completed. Ohana units cannot be built on any lot where more than one unit is already permitted in the zoning district, such as multi-family dwellings.

## Case Studies

A comprehensive understanding of ADUs as a housing model is challenging because local regulations, housing markets, and community preferences vary so dramatically. However, municipalities permitting and encouraging ADUs generally have a shortfall of affordable housing, a desire to make efficient use of already-existing housing stock, are "built-out" with no additional vacant land for urban use, or have growth limitations that encourage land infill. ADUs also reduce the need for land acquisition, and can help low-income residents continue to live in the area.

*Lexington, Massachusetts:* A historic town near Boston, Lexington has exhausted its supply of land for any new housing development. Like Hawai'i, its median home price is extremely high (over \$600,000), and 18 percent of its residents are eligible for affordable housing. Lexington chose to emphasize ADUs to encourage neighborhood diversity and meet affordable housing needs while maintaining its historic character. In 2005, the town made their ADU program more flexible, accompanying it by an outreach campaign to increase participation and creation of ADUs. The bylaw changes reduced or eliminated minimum lot sizes, allowed up to two ADUs per lot, allow ADUs "by-right" on certain properties and to be included in new construction, with only one off-street parking space required.

*Santa Cruz, California:* To encourage affordable rentals of ADUs, some development fees are waived for units rented to low or very low income households. The town has created a program to facilitate the development of ADUs, including technical assistance, with pre-approved designs that expedited the permitting process, and an ADU manual. An average of 40–50 ADUs have been constructed annually since the creation of this program

*Portland, Oregon:* Portland has strict urban growth boundaries and a heavy emphasis on efficient use of land and transit-oriented housing. ADUs are now allowed in all residential zones with no minimum square footage. The city has continued to create incentives by waiving fees. After waiving the Systems Development Charges, which had typically cost about \$10,000 per ADU, and creating other incentives, ADU development increased nearly fivefold in just two years. No additional parking is required for ADUs, making them easier to build and encouraging the use of public transit.



Tiny House Blog

*Other ADU-related policies:* Barnstable, Massachusetts offers tax relief to property owners to offset the negative impact of deed restrictions in order to preserve the affordability of units. In addition to more traditional ADUs, Fauquier County, Virginia, permits “tenant houses” to support agriculture. At least one resident of the tenant house must work on the property and are zoned in agricultural areas or properties over 50 acres, with one tenant house permitted for each 50 acres of property. Boulder, Colorado has addressed concerns over density by limiting the number of ADUs that can be built in residential areas.

## Concerns

### *Illegal ADUs:*

The City and County of Honolulu already allows for recreation rooms up to 1,000 sq. ft. in residential zones. These units can be attached or detached, and there is rarely a sewage connection fee or additional sewer usage fee charged. In 2011 alone, 548 building permits were issued for recreation rooms within Honolulu’s residential zones. The research of Questor Lau, a local architect and doctoral candidate at the University of Hawai’i has suggested that many of these units are being illegally equipped with full kitchens and rented out. This tracks findings from other parts of the country, in which illegal ADUs form a shadow rental market, often meeting affordable housing needs. It removes any need for residents to illegally rent out a “recreation room” and relaxes the burdensome regulations and restrictive covenants placed on ohana dwellings.

*Impact of increased density:* Concerns have been raised about the impact on infrastructure, health, and safety. Allowing ADUs by right could effectively double density in all residential areas, especially since it is almost impossible to enforce occupancy limits. Demands on infrastructure are thus a legitimate concern. Certain areas of the island are better suited for increased housing than others because their infrastructure is up to code. While the city

is constantly repairing and expanding the capacity of the sewer system in particular, ultimately infrastructure functionality of any county is capped by the amount of revenue it is able to raise. Without adequate funds, infrastructure may very well be overextended faced with an increase in housing demands.

To offset the infrastructure costs, cities often charge sewage connection fees and ongoing sewage use fees for ohana dwellings. Lau notes that that source of revenue would increase substantially if recreation rooms illegally used as rental units were charged the same fees. If community streets, sewers, and water systems are already supporting recreation rooms that are comparable in size and use to the proposed ADUs, the residents occupying those units should contribute to funding public services. However, the broader issue of funding infrastructure requires considering taxation.

*Illegal vacation units:* There have also been concerns that permitting ADUs would be used to add dwellings for illegal vacation units. However, the rec room loophole identified by Lau again means that there are already possible illegal vacation rentals, and even ohana units could be used for that purpose. To address concerns around infrastructure, the counties could reduce the number of people living in each ADU by imposing size restrictions. However, there is no effective way to enforce occupancy rules directly. Essentially, illegal occupants must be observed inhabiting the unit and admit that they have been living there. But this means that the current system would also allow illegal rentals—right now, a homeowner could rent an ohana unit to anyone or for any use after receiving the permit for construction. No matter who is occupying the ADUs, it is important that the counties to consider the black market in ADUs. Legalizing and regulating ADUs will better help the counties be able to absorb any additional infrastructure demands. Enacting a certain degree of control over the building process is likely the extent to which local or state authorities can address this concern.

### ***Changes to the character of the neighborhood***

Another concern is that the presence of ADUs was unfair to property owners who had purchased homes in a single-family residential area or that it would change the character of the neighborhood. Sentiments such as these, are often formed from the NIMBY (“Not In My Backyard”) mentality. A public relations campaign that works with community members to decide design guidelines and promotes best practices for ohana construction could serve as an effective way to combat NIMBYism; but the demand for recreation room permits and the existence of ohana zones demonstrates a growing wave of interest in ADUs. These facts alone indicate that 1) there *are* single family residents in need or that want secondary dwelling units on their plots, and 2) there is some effort on the part of the counties, including the City and County of Honolulu, to identify the residential areas best suited for the characteristics



of accessory dwelling units. Above all policy makers need to reiterate that communities able to help meet the need for affordable housing are part of a solution; they are not necessarily bearing a burden.

## Recommendations

### *Future State Initiatives:*

The State should create an incentive program for counties and property-owners to build ADUs. Encouraging the construction of ADUs with state funds to offset infrastructure demands or relief in another area might inspire the individual counties to adopt more flexible building and land use restrictions. Providing incentives to individual homeowners is another option.

### *Proposed Local Reforms and Initiatives*

#### *Encouraging additional dwelling units where allowed under current regulations:*

A model along the lines of Santa Cruz's, with manuals walking property owners through the ADU process and free architectural plans, would help maximize what is currently permissible under land use ordinances. Financing for any form of ADU can be challenging, and financial institutions should be more flexible in lending for ADUs. Since it is challenging to assess the impact that ADUs have on property values, especially because most traditional assessments do not factor in future rental income, a more progressive approach to financing will be required in Hawai'i to ensure that homeowners are able to build ADUs.

#### *Easing the building regulations in current ohana zones on Oahu:*

When ohana dwellings were first permitted in 1982, they comprised almost 25 percent of all single-family construction. In 2011, they were a mere 2 percent of building permits. Maui has already loosened its restrictions on ADUs and seen far more ADUs developed than Oahu has ohana dwellings. Many unrelated families and individuals are already doubling up or renting out rooms, and loosening ADU occupancy requirements would help alleviate overcrowding related to these living arrangements and allow ADUs to be a serious response to the affordable housing shortfall. Such requirements are rare in other jurisdictions allowing ADUs.

Other building requirements that could be relaxed include allowing secondary units to be detached from the main dwelling and removing the two parking space requirement for ADUs. Adjusting the zoning for ADUs could also include limitations on the density of ADUs in a neighborhood or restrictions on the actual number of units, depending on the capacity of the area. A study of the impact and success of ADUs on Maui could provide useful guidance for Oahu.

In addition to loosened restrictions, the counties should follow the lead of

other high-cost areas and begin actively encouraging the creation of ADUs. Additional incentives could include a GET waiver for income from low or very low income tenants residing in ADUs or renting rooms from homeowners. Counties could also reduce or waive permitting fees, especially inconsideration of ADU's smaller size. Minimum parking requirements are another barrier to creation of ADUs due to expense and lot size.

Public education about the many benefits of ADUs is key. The counties should provide adequate assistance to homeowners interested in developing ADUs and promote broader awareness of ohana dwelling opportunities that already exist.

#### *Addressing community opposition:*

The most frequently raised concerns about ADUs have not come to pass in communities that have adopted less restrictive ADU ordinances. Many property owners with ADUs live on-site and also have a deep interest in their community. In cities such as Vancouver, British Columbia, initial opposition to ADUs dissipated as the units became widespread and community members realized their benefits.

#### *Amnesty for rec rooms:*

Barnstable, Massachusetts in Cape Cod created an amnesty program which required that property owners with unauthorized ADUs rent to low-income tenants for one year to bring the ADU into compliance; many units have been brought into compliance, increasing safety and the affordable housing supply. Marin County also had a successful amnesty program. An amnesty program would allow the counties to begin collecting fees and additional property taxes and encourage property owners to pay General Excise Tax on rental income.

### **Conclusion**

Our community cannot simply wish our affordable housing shortfall away. Advocates of affordable housing, smaller architects and developers, building inspectors, government agencies, and others can benefit from local ordinances that relax the regulations placed on ohana dwellings. At the very least, easing the building regulations and family member requirement on ohana units in the current zones would be a productive first step. An amnesty program could also help address the impact of illegal rec room rentals that we appear to already be experiencing. These options would allow individual homeowners be part of the solution for the state housing crisis and would keep management of land use and infrastructure within local control.

*For more information on ADUs, ohana units, and rec rooms in Honolulu, please see Questor Lau's blog, OURchitecture at <http://allkindsdrafting.blogspot.com>.*